



COUNCILMEMBER DONNA FRYE

**City of San Diego
Sixth District**

MEMORANDUM

DATE: November 2, 2009
TO: David Wescoe, Administrator, SDCERS
FROM: Councilmember Donna Frye *Donna Frye*
SUBJECT: Municipal Code Changes (Sections 24.1102 and 24.1120)

At the October 20, 2009 City Council meeting, SDCERS requested that the Council adopt an ordinance to correct SDMC Section 24.1102 and delete SDMC Section 24.1120. Prior to this matter coming back to the City Council, I have the following questions:

1. How was this operational failure discovered, when, and by whom? For example, was it by an outside party?
2. I received a document that appears to be a MOU with MEA that includes a section titled "Buy-Backs" under Article 22 (attached). This section states:

"Effective July 1, 1991, current employees with 1981 Pension Plan credited years of service will be granted, at no cost to the employee, credit for past CERS service.

- a) Should the City Council not approve the conversion in funding methodology from EAN to PUC effective July 1, 1991, employees in this group who are represented by MEA will be allowed to 'buy back' past CERS service and will be responsible for all associated costs"*

Did the City approve the conversion in funding methodology from EAN to PUC, effective July 1, 1991? If so, how was this done, as it is my understanding that this type of action is a responsibility of the SDCERS Board?

3. In the SDCERS October 20, 2009, powerpoint presented to the City Council, it states that, *"131 General members took a refund of contributions paid into SDCERS prior to entering the 1981 Pension plan, and returned to the SDCERS plan after the 1981 Pension plan was closed, and repurchased their original SDCERS service credit, plus interest."*

However, Elaine W. Reagan's and Roxanne Story Park's January 13, 2009, Staff Report to SDCERS Business and Governance Committee states on page 4: *"Benefits Administration has run a preliminary query of the database to identify those Members who entered into a prohibited purchase. It has determined that at least 300 Members obtained a refund pre-1981 contributions but cannot guarantee this is a comprehensive list. It will require extensive time and resources to identify all Members who subsequently repurchased that time."*

How many Members, who are now retired, were allowed to enter into these prohibited purchases? What is the aggregate amount of all those purchases in dollars?

How many Members, who have not retired, will be allowed to enter into these purchases if the SDMC is amended? What is the aggregate amount of all those purchases in dollars?

Please explain the discrepancy in these numbers (131 Members vs 300+ Members) and whether anyone knows with certainty how many Members entered into a prohibited purchase.

4. The January 13, 2009, Staff Report states that, *"Benefits Administration would need to manually review all Members who were employed during the applicable time period for (sic) prepare an accurate list and estimates this would take approximately six months to complete."*

Has this review been completed? If so, please provide me with a copy.

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5. Please provide the total value of benefits associated with amending the SDMC and the total cost if the SDMC is not amended as requested by SDCERS.
 6. Does this proposed change in ordinance grant any type of benefit?

Thank you for your prompt response to these questions.

CC: Honorable City Councilmembers
Honorable Mayor Jerry Sanders
City Attorney, Jan Goldsmith
Andrea Tevlin, Independent Budget Analyst
Stanley Keller, Independent Consultant

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RetirementElimination of "Tier Two" Benefits

All General Members who are presently in or eligible only for the 1981 Pension Plan will be provided the same level of benefits currently provided to members of the old CERS plan, except as to disability and medical benefits, with the understanding that contribution rates shall be adjusted according to the member's age at entry into the 1981 Plan and that the benefit change will be prospective only, with an anticipated effective date of July 1, 1989.

High One-Year Basis for Final Compensation

Retirement benefits for General Members shall be based upon the "highest one-year" annual compensation earnable in lieu of the existing "highest three-year" average compensation earnable. This change in benefit calculation shall apply to all General Members who are participating and contributing members on or after December 30, 1988, and who retire on or after July 1, 1989. M.E.A. agrees that there will be an increase in employee contribution rates in the amount of .4% on December 30, 1988, to cover the cost of this "high one-year" basis for final compensation.

The City agrees that it will apply an amount that is approximately equal to 4.5% (5% effective July 1, 1990) of the base salary of employees covered by this agreement and 6.5% (effective July 3, 1988) for eligible Lifeguards and Harbor Patrol Officers in the City Retirement System, thereby reducing the amount deducted from employees' paychecks as the employees' retirement contribution by that amount. Effective July 1, 1989, the employee contribution rate for eligible Lifeguards and Harbor Patrol Officers in the City Retirement System will be reduced by .4%. The employee, upon termination, will have no vested right in the amount so contributed by the City. Substitution of this portion of the employees' contribution by a City payment will not decrease the total amount applied towards the required retirement contribution, and will not affect retirement benefits. Provided, however, such payment shall not exceed any employees' total contribution to the system.

IRC Section 415 Amnesty Provisions

In order to preserve CERS' tax qualified status, MEA and the City mutually agree to adopt the "amnesty" or "grandfather" provisions of IRC Section 415 (b) (10), and agree to meet and confer regarding "make-up" provisions.

Retiree Health Insurance

Contingent upon the City Council approving the conversion of the City Employees Retirement System actuarial funding methodology from the Entry

Age Normal (EAN) method to the Projected Unit Credit (PUC) employees represented by MEA will receive the following retirement benefits, at no additional cost to the employee.

- 1) Effective July 1, 1992, the City will pay a health insurance benefit to employees, enrolled after September 3, 1982, who retire, based on the following graduated vesting schedule and with the following "cap" on the total benefit to be paid:
 - a) For each year of covered service since September 3, 1982, an employee will earn a 5% vested share of the total retiree health insurance benefit which would otherwise be payable in accordance with (b) and (c) below. For example, an employee who has eight (8) years of covered service as of July 1, 1992, would have a right to receive from the City, upon retirement on that date, an amount equal to 40% of the premium then being charged for the retiree health insurance plan designated in accordance with (b) below;
 - b) The amount of the health insurance benefit which the retiree actually receives will be determined by applying his or her vested percentage against the actual, then-current, lowest premium being charged for an available retiree health insurance plan; however, this "lowest premium" as the value against which the amount of the retiree's benefit is calculated, shall not include the highest deductible options for City Med, the Secure Horizons Plan or any other plan which does not represent a standard insurance coverage;
 - c) In any event, the maximum amount which the City will be obligated to pay to such retiree for health insurance will be \$2,000.00 a year. For example, a "fully vested" retiree, with 20 years of covered service when he or she retires after July 1, 1992, will receive 100% of the "lowest premium" but not more than \$2,000 each year.
- 2) This retiree health insurance benefit will be a new benefit for employees hired after September 3, 1982, who currently have no City-paid health insurance benefits upon retirement. Employees hired before this date, who are and have been members of CERS, will continue to enjoy full health insurance benefits to which they are already entitled upon retirement.
 - A) Those employees, originally members of CERS, who left CERS voluntarily to enter the 1981 Plan, will also be entitled to the same health insurance benefits they would have enjoyed had they never left CERS.
- 3) Any employee, hired after September 3, 1982, who retires between July 1, 1991, and July 1, 1992, will be solely responsible for his or her health insurance premiums through June 30, 1992. However, effective July 1, 1992, such retirees will thereafter receive the same health insurance benefit on the same terms as described in (1) above, with his or her "vested" percentage determined at the time of actual retirement.

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BUY-BACKS

1. Effective July 1, 1991, current employees with 1981 Pension Plan credited years of service will be granted, at no cost to the employee, credit for past CERS service.
 - a) Should the City Council not approve the conversion in funding methodology from EAN to PUC effective July 1, 1991, employees in this group who are represented by MEA will be allowed to "buy back" past CERS service and will be responsible for all associated costs.

C.O.L.A.

1. Effective July 1, 1992, the cost-of-living adjustment (COLA) for retirees who retired before October 6, 1980, will increase from 1.5% to 2% per year.

ARTICLE 23

Lifeguard Training and Enforcement

The M.E.A. may select no more than three Lifeguards which the City may meet with to discuss training programs and enforcement responsibilities.

M.E.A. will bring all matters regarding training and enforcement to the committee prior to seeking resolution elsewhere. Such matters must be dealt with in a reasonable time.

This committee will not be used as a vehicle to bypass the management chain of command in the Park and Recreation Department.

The committee will meet with management to develop a vacation scheduling system that is agreeable to both the employees and management.

The M.E.A. may meet with the City to discuss training programs and enforcement responsibilities for Lifeguards, including the development of a more adequate training program for seasonal Lifeguard I's.

ARTICLE 24

Limited Appointments

Management agrees not to fill permanent, full-time, one-half time, or three-quarter time budgeted positions with employees serving on limited appointments except in extraordinary circumstances. Management intends to use limited appointments fill hourly positions, positions funded by the State and Federal Government, and full-time budgeted positions in which the incumbent employee is on a leave of absence.

M.E.A. and Management will continue to evaluate the use of limited appointments in the City.